



*previously faxed*  
**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

FEB 22 2001

DAVID J. MALAND, CLERK  
BY *[Signature]*  
DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
OFFICE OF THE CLERK**

*Michael N. Milby, Clerk*

*P.O. Box 61010  
Houston, Texas 77208*

*Date: February 22, 2001*

*1:01cr 31-3*

*To: Eastern District of Texas - Beaumont*

*From: Linda Gonzales, Case Manager for Magistrate Judge Johnson  
713-250-5534*

*Rule 40 Documents*

*Re: District of Arrest Case No: CR-H01-208M  
Charging District Case No: 1:01CR-31-3*

**USA V. JOSEPH FRANKLIN SMITH, JR.**

*The following matters were resolved in this district:*

*Appointment of Counsel: FPDO*

*ID/Detention Hearings: ID/Detention waived.*

*Probable Cause Hearings: \_\_\_\_\_*

*Bond Set : no  
(any case deposited in the Registry will be forwarded under separate cover)  
Surrendered Passport \_\_\_\_\_*

*Commitment Order to another district: Yes*

*Additional Comments: Wishes detention hearing to be held in charging district.*

*Please acknowledge receipt of documents by stamping date of receipt on the enclosed copy of letter and returning in the self-addressed envelope provided.*

*cc: Finance Section (if cash deposited in the Registry of the Court)*

77magin.cr (11/22/91)

## COURTROOM MINUTES:

☒ INITIAL APPEARANCE      ☐ IDENTITY  
☐ BOND HEARING      ☐ PRELIMINARY HEARING  
☐ DETENTION HEARING  
☐ COUNSEL DETERMINATION HEARING  
☐ HEARING CONTINUED ON \_\_\_\_\_

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

FILED

2-16-01

MICHAEL N. MILBY, Clerk

THE HONORABLE NANCY K. JOHNSON, Presiding  
Deputy Clerk: Linda Gonzales

OPEN: 11:50 ADJOURN: 11:50

☒ VIDEO/Tape No: \_\_\_\_\_☒ Other District ☐ Division E.D. of TX - BeaumontINTERPRETER PRESENT ☒ No ☐ Yes

Case No. \_\_\_\_\_

CRIMINAL NO. H01-208M DEFT No. \_\_\_\_\_ USDJ \_\_\_\_\_

UNITED STATES OF AMERICA

vs

Joseph Franklin Smith§  
§  
§  
§  
§  
§  
§Cedric Joubert, AUSA  
☒ kgaddatty.

Counsel for Defendants Appt - (A), Retd - (R), FPD - (F)

☒ kars. .... Date of arrest: 2-16-01 or ☒ karsr40  
☒ kia. .... Deft first appearance. Deft advised of rights/charges ☐ Probation violator  
☐ ..... ☐ Deft ☐ MW ☐ appeared ☐ with ☒ without counsel.  
☐ ..... Requests appointed counsel.  
☐ kfinaff. . . FINANCIAL AFFIDAVIT executed.  
☐ koaptpd. . Order appointing Federal Public Defender.  
☒ k20appt. . Private Counsel appointed, \_\_\_\_\_  
☐ ..... Deft advises he will retain counsel. He retained \_\_\_\_\_

☐ ko.(bnd.) . Bond ☐ set \$ \_\_\_\_\_ ☐ Cash ☐ Surety ☐ 10% ☐ PR for ☐ Unsecured  
☐ ..... Surety signatures required \_\_\_\_\_  
☐ kodtn. . . No bond set at this time, 10 day DETENTION ORDER entered.  
☒ kodtn. . . ORDER OF TEMPORARY DETENTION PENDING HEARING entered.  
☐ kodtn. . . ORDER OF DETENTION PENDING TRIAL entered.  
☐ kocondrls. . Deft advised of conditions of release.  
☐ kbnd. .... BOND EXECUTED, ☐ BOND CONTINUED ( ☐ State Authorities, ☐ INS )  
☒ kloc.(LC) ☒ Deft ☐ MW REMANDED to CUSTODY.  
☐ ko. .... Deft ORDERED REMOVED to Originating District.

☐ kwvprl. . . WAIVER of ☐ Preliminary WAIVER of ☐ Detention ☐ kwvr40hrg. . . Waiver of Rule 40 Hearing☐ ..... Court finds PROBABLE CAUSE ☐ ID ☐ PC.☐ karr. .... Arraignment set \_\_\_\_\_ ☒ kdtnhrg. Detention Hearing set 2-21-01 2:00☐ kprlxm. . . Preliminary set \_\_\_\_\_ ☐ kbndhrg. Bond Hearing set \_\_\_\_\_☒ krmknn. . . Counsel Determination Hearing set 2-20-00 2:00☒ krmvhr. . . Identity/Removal Hearing set 2-21-01 2:00☐ ..... Deft failed to appear. Oral ORDER for ISSUANCE OF BENCH WARRANT. Bond FORFEITED. (kloc./LR)☐ ..... See reverse for additional proceedings and attorneys addresses.

000010



AO 470 (8/86) Order of Temporary D 500

FEB 16 2001

Michael N. Milby, Clerk of Court

United States District Court

DISTRICT OF

UNITED STATES OF AMERICA

v.

**ORDER OF TEMPORARY DETENTION  
PENDING HEARING PURSUANT TO  
BAIL REFORM ACT**

Joseph Franklin Smith  
Defendant

Case Number: H01-208

Upon motion of the GOVERNMENT, it is ORDERED that a  
detention hearing is set for 2-21-01 \* at 2:00  
*Date* *Time*


before NANCY K. JOHNSON  
Name of Judicial Officer

HOUSTON, TEXAS

*Location of Judicial Officer*

Pending this hearing, the defendant shall be held in custody by (the United States marshal) ( \_\_\_\_\_ ) and produced for the hearing.

Date: 2-16-01

  
\_\_\_\_\_  
Judicial Officer

\*If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. §3142(d)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. §3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror.

000011

77magin.cr (11/22/91)

## COURTROOM MINUTES:

☐ INITIAL APPEARANCE ☐ IDENTITY  
☐ BOND HEARING ☐ PRELIMINARY HEARING  
☒ DETENTION HEARING  
☒ COUNSEL DETERMINATION HEARING  
☐ HEARING CONTINUED ON \_\_\_\_\_

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

FILED

MICHAEL N. MILBY, Clerk

OPEN: 3:29 ADJOURN: 3:34

THE HONORABLE NANCY K. JOHNSON, Presiding  
Deputy Clerk: Linda Gonzales

HERO/Tape No: M. McGrew

☒ Other District ☐ Division \_\_\_\_\_INTERPRETER PRESENT ☒ No ☐ Yes

Case No. \_\_\_\_\_

CRIMINAL NO. H 01-208m DEFT No. \_\_\_\_\_ USDJ \_\_\_\_\_

UNITED STATES OF AMERICA

vs

Joseph Franklin Smith

§ al Balboni, AUSA

§ kgaddaity.

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§  
§  
§

Counsel for Defendants Appt - (A), Retd - (R), FPD - (F)

☐ kars. . . . Date of arrest: \_\_\_\_\_ or ☐ karsr40  
☒ kia. . . . Deft first appearance. Deft advised of rights/charges ☐ Probation violator  
☒ . . . . ☐ Deft ☐ MW ☐ \_\_\_\_\_ appeared ☐ with ☒ without counsel.

☒ Requests appointed counsel.☒ kfinaff. . . FINANCIAL AFFIDAVIT executed.☒ kappdpd. . . Order appointing Federal Public Defender.☒ k20appt. . . Private Counsel appointed, \_\_\_\_\_☐ . . . . Deft advises he will retain counsel. He retained \_\_\_\_\_☐ ko.(bnd.) . . Bond ☐ set \$ \_\_\_\_\_ ☐ Cash ☐ Surety ☐ 10% ☐ PR for ☐ Unsecured☐ . . . . Surety signatures required \_\_\_\_\_☐ kodtn. . . . No bond set at this time, 10 day DETENTION ORDER entered.☐ kodtn. . . . ORDER OF TEMPORARY DETENTION PENDING HEARING entered.☐ kodtn. . . . ORDER OF DETENTION PENDING TRIAL entered.☐ kocondrls. . Deft advised of conditions of release.☐ kbnd. . . . BOND EXECUTED, ☐ BOND CONTINUED ( ☐ State Authorities, ☐ INS )☐ kloc.(LC) ☐ Deft ☐ MW REMANDED to CUSTODY.☐ ko. . . . Deft ORDERED REMOVED to Originating District.☐ kwvprl. . . WAIVER of ☐ Preliminary WAIVER of ☐ Detention ☐ kwvr40hrg. . . Waiver of Rule 40 Hearing☐ . . . . Court finds PROBABLE CAUSE ☐ ID ☐ PC.☐ karr. . . . Arraignment set \_\_\_\_\_ ☒ kdtnhrg. Detention Hearing set 2-21-01☐ kprlxm. . . Preliminary set \_\_\_\_\_ ☐ kbndhrg. Bond Hearing set \_\_\_\_\_☒ krmknn. . . Counsel Determination Hearing set \_\_\_\_\_☒ krmvhr. . . Identity/Removal Hearing set 2-21-01☐ . . . . Deft failed to appear. Oral ORDER for ISSUANCE OF BENCH WARRANT. Bond FORFEITED. (kloc./LR)☐ . . . . See reverse for additional proceedings and attorneys addresses.

★ Reimburse 200.00 per month

000012



## FINANCIAL AFFIDAVIT

CJA 23  
(Rev. 5/98)

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES  
IN THE CASE OF☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☒ OTHER PANEL (Specify below)

FOR

FEB 20 2001

LOCATION NUMBER

AT

Michael N. Milby, Clerk of Court

PERSON REPRESENTED (Show your full name)

Joseph Franklin Smith, Sr.

- 1 ☐ Defendant - Adult  
 2 ☐ Defendant - Juvenile  
 3 ☐ Appellant  
 4 ☐ Probation Violator  
 5 ☐ Parole Violator  
 6 ☐ Habeas Petitioner  
 7 ☐ 2255 Petitioner  
 8 ☐ Material Witness  
 9 ☐ Other (Specify) \_\_\_\_\_

DOCKET NUMBERS

Magistrate

District Court

Court of Appeals

CHARGE/OFFENSE (describe if applicable &amp; check box →)

- ☒ Felony  
☐ Misdemeanor

## ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

EMPLOY-  
MENTAre you now employed? ☐ Yes ☒ No ☐ Am Self Employed

Name and address of employer: Full-time student at TSU.

IF YES, how much do you earn per month? \$ \_\_\_\_\_ IF NO, give month and year of last employment How much did you earn per month? \$ \_\_\_\_\_

If married is your Spouse employed? ☐ Yes ☐ No

IF YES, how much does your Spouse earn per month? \$ \_\_\_\_\_ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ \_\_\_\_\_

OTHER  
INCOMEHave you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? ☒ Yes ☐ No

IF YES, GIVE THE AMOUNT RECEIVED &amp; IDENTIFY \$ THE SOURCES

RECEIVED

700.00

SOURCES

Social Security Benefits.  
120% Full Father's Insurance - Death Benefit

CASH

Have you any cash on hand or money in savings or checking account ☐ Yes ☒ No IF YES, state total amount \$30PROP-  
ERTYDo you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☒ Yes ☐ No

VALUE

DESCRIPTION

IF YES, GIVE THE VALUE AND \$2,500 84' Delta 88' Free & clear  
DESCRIBE IT

DEPENDENTS

MARITAL STATUS

- ☒ SINGLE  
☐ MARRIED  
☐ WIDOWED  
☐ SEPARATED OR DIVORCED

Total  
No. of  
Dependents

0

List persons you actually support and your relationship to them

OBLIGATIONS  
& DEBTSDEBTS &  
MONTHLY  
BILLS(LIST ALL CREDITORS,  
INCLUDING BANKS,  
LOAN COMPANIES,  
CHARGE ACCOUNTS,  
ETC.)APARTMENT  
OR HOME:

Creditors

Total Debt

Monthly Payt.

Lives at home w/ mother.  
No liabilities reported.

\$

\$

\$

\$

\$

\$

\$

\$

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) 2/16/01

SIGNATURE OF DEFENDANT  
(OR PERSON REPRESENTED)

Joseph F. Smith

000013

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CLERK, U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
FILED  
2-20-01  
MICHAEL N. MILBY, CLERK  
DEPUTY

UNITED STATES OF AMERICA

V.

Joseph Franklin Smith

§  
§  
§  
§  
§

CR. H- 01-208M

ORDER APPOINTING COUNSEL

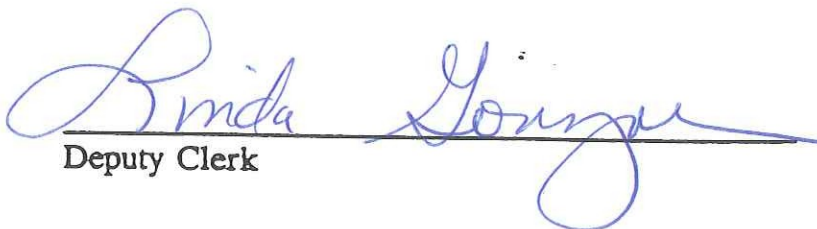
Because the above named defendant has testified under oath or has otherwise satisfied this court that he or she (1) is financially unable to employ counsel, and (2) does not wish to waive counsel, and because the interests of justice so require, the Federal Public Defender is hereby appointed to represent this person in the above designated case.

If the appointment is made by a magistrate and the case subsequently proceeds to U.S. District Court, the appointment shall remain in effect until terminated or substitute attorney is appointed.

Date: 2-20-01

UNITED STATES MAGISTRATE JUDGE

or BY ORDER OF THE COURT

  
Deputy Clerk

000014



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FEB 21 2001  
Michael M. Milby, Clerk of Court

UNITED STATES OF AMERICA

§  
§  
§  
§  
§

vs.

Crim. No. H- 01-208M

Joseph Franklin Smith, JR.


ORDER FOR PARTIAL REIMBURSEMENT  
OF COURT APPOINTED COUNSEL

Upon review of Defendant's Financial Affidavit, the Court has determined that the Defendant qualifies for court appointed counsel in accordance with the Criminal Justice Act. At the same time, the Court feels that the Defendant is able to make financial contribution towards his/her legal representation. It is, therefore,

ORDERED that Defendant pay \$ 200.00 per month, in the form of a money order or cashier's check, made payable to Clerk, U.S. District Court. Such payment shall be mailed to U.S. District Court, Financial Section, P.O. Box 61010, Houston, Texas 77208 on or before the 20th day of each month.

Alternatively, Defendant is Ordered to make a one-time payment in the amount of \$ \_\_\_\_\_ which shall be forwarded to the above address within 30 days after entry of this Order.

Date: 2-20-01

  
Nancy K. Johnson  
United States Magistrate Judge

## 000016



UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

FEB 21 2001

Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

*versus*

*Joseph Smith*

Defendant.

§  
§  
§  
§  
§  
§  
§  
§

CRIMINAL ACTION NO. *401-208m*

**WAIVER OF DETENTION HEARING  
IN DISTRICT OF ARREST**

Defendant, who is subject to removal to another district for prosecution, after being advised of his right to an immediate detention hearing in this district, including the right to present evidence, call witnesses, cross-examine the government's witnesses, proffer testimony and assert reasons why he should not be detained, elects to waive this right.

Defendant elects to have the detention hearing held in the district of prosecution upon his removal to that district.

Dated: *26 Feb 01*.

*Joseph F. Smith*  
Defendant

*[Signature]*  
Witness

*[Signature]*  
Counsel for Defendant

000017

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CLERK, U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
FILED  
2-21-01  
MICHAEL N. MILBY, CLERK  
BY DEPUTY

UNITED STATES OF AMERICA

V.

Joseph Smith

WAIVER OF RULE 40 HEARINGS  
(Excluding Probation Cases)

CASE NUMBER: CR-H01-208M

I, Joseph Smith, understand that in the Eastern District  
of Texas, charges are pending alleging violation of 18 USC 371, 1951, 2, 92  
(c) + 2, 2119 and that I have been arrested in this District and taken before a United  
States Magistrate Judge, who informed me of the charges and of my right to:

(1) retain counsel or request the assignment of counsel if I am unable to retain counsel,  
(2) request transfer of the proceedings to this district pursuant to Rule 20, Fed. R. Crim.  
P., in order to plead guilty, (3) an identity hearing to determine if I am the person named  
in the charge, and (4) a preliminary examination (unless an indictment has been returned or  
an information filed) to determine whether there is probable cause to believe an offense has  
been committed by me, the hearing to be held either in this district or the district of  
prosecution.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

- ( ) identity hearing
- ( ) preliminary examination
- ( ) identity hearing and have been informed I have no right to a preliminary examination
- (☒) identity hearing but request a preliminary examination <sup>& detention hearing</sup> be held in the prosecuting  
district
- ( ) invoke my right to have a hearing on the government's motion for detention but ask that  
it be held in the prosecuting district. I understand that this request may result in  
a delay of that hearing and I ask the court to find that good cause exists to extend  
the time allowed for that hearing.

and, therefore, consent to the issuance of an order requiring my appearance in the  
prosecuting district where the charges are pending against me.

Joseph Smith  
Defendant

21 Feb 01  
Date

[Signature]  
Defense Counsel

000018



AC 94 (Rev. 8/97) Commitment to Another District

United States District Court  
Southern District of Texas

## UNITED STATES DISTRICT COURT

FEB 21 2001  
Michael A. Milby, Clerk

District of

UNITED STATES OF AMERICA

COMMITMENT TO ANOTHER DISTRICT

v.

Joseph Franklin Smith, Jr.

## DOCKET NUMBER

## MAGISTRATE JUDGE CASE NUMBER

District of Arrest

District of Offense

District of Arrest

District of Offense

CR-401-208M

1:01-CR-31

CR-401-208M

## CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☒ Indictment☐ Information☐ Complaint☐ Other (specify)

charging a violation of

U.S.C. §

## DISTRICT OF OFFENSE

E. D. Tx - Beaumont

## DESCRIPTION OF CHARGES:

conspiracy to affect commerce by robbery  
use of firearm

## CURRENT BOND STATUS:

☐ Bail Fixed at

and conditions were not met

☐ Government moved for detention and defendant detained after hearing in District of Arrest☒ Government moved for detention and defendant detained pending detention hearing in District of Offense☐ Other (specify)

## Representation:

☐ Retained Own Counsel☒ Federal Defender Organization☐ CJA Attorney☐ None

## Interpreter Required?

☒ No☐ Yes

Language:

## DISTRICT OF

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant

2-21-01

Date

United States Judge or Magistrate Judge

## RETURN

This commitment was received and executed as follows:

DATE COMMITMENT ORDER RECEIVED

PLACE OF COMMITMENT

DATE DEFENDANT COMMITTED

DATE

UNITED STATES MARSHAL

(BY) DEPUTY MARSHAL

000019